



[Billing Code 3290-F8]

**OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

**[Docket Number USTR-2018-0029]**

**Request for Comments to Compile the National Trade Estimate Report on Foreign Trade Barriers**

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice.

**SUMMARY:** The Office of the United States Trade Representative (USTR) publishes the National Trade Estimate Report on Foreign Trade Barriers (NTE Report) each year. The Trade Policy Staff Committee (TPSC) invites interested persons to submit written comments to assist the TPSC in identifying significant barriers to U.S. exports of goods and services, U.S. foreign direct investment, and the protection and enforcement of intellectual property rights for inclusion in the NTE Report. USTR also will consider responses to this notice as part of the annual review of the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States.

**DATES:** We must receive all written comments no later than 11:59 pm on October 30, 2018.

**ADDRESSES:** USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: <http://www.regulations.gov>. The instructions for submitting comments are in section 4 below. The docket number is USTR-2018-0029. For alternatives to on-line submissions, contact Yvonne Jamison at (202) 395-3475 before transmitting a comment and in advance of the relevant deadline.

**FOR FURTHER INFORMATION CONTACT:** Yvonne Jamison at (202) 395-3475.

**SUPPLEMENTARY INFORMATION:**

**1. Background**

Section 181 of the Trade Act of 1974, as amended (19 U.S.C. 2241) requires USTR annually to publish the NTE Report, which sets out an inventory of the most significant foreign barriers affecting U.S. exports of goods and services, U.S. foreign direct investment, and the protection and enforcement of intellectual property rights. The inventory facilitates U.S. negotiations aimed at reducing or eliminating these barriers and is a valuable tool in enforcing U.S. trade laws and strengthening the rules-based trading system. You can find the 2018 NTE Report on USTR's website at <http://www.ustr.gov> under the tab 'Reports'. To ensure compliance with the statutory mandate for the NTE Report and the Administration's commitment to focus on the most significant foreign trade barriers, USTR will be guided by the existence of active interest in deciding which restrictions to include in the NTE Report.

**2. Topics on Which the TPSC Seeks Information**

To assist USTR in preparing the NTE Report, commenters should submit information related to one or more of the following categories of foreign trade barriers:

1. Import policies (*e.g.*, tariffs and other import charges, quantitative restrictions, import licensing, customs barriers, and other market access barriers).
2. Trade restrictions implemented through unwarranted standards, conformity assessment procedures, or technical regulations (technical barriers to trade) that may have as their objective protecting national security requirements, preventing deceptive practices, or protecting human health or safety, animal or plant life or health, or the environment, but that can be formulated or implemented in ways that create significant barriers to trade (including unnecessary or discriminatory technical regulations or standards for telecommunications products).
3. Trade restrictions implemented through unwarranted sanitary and phytosanitary (SPS) measures that the country claims to impose for purposes of protecting human, animal, and plant life or health (*e.g.*, SPS measures not based on scientific evidence).
4. Subsidies, including export subsidies (*e.g.*, export financing on preferential terms, subsidies provided to equipment manufacturers contingent on export, and agricultural export subsidies that displace U.S. exports in third country markets) and local content subsidies (*e.g.*, subsidies contingent on the purchase or use of domestic rather than imported goods).
5. Government procurement restrictions (*e.g.*, “buy national policies” and closed bidding).

6. Lack of intellectual property protection and enforcement (*e.g.*, inadequate patent, copyright, and trademark regimes).
7. Barriers to trade in services (*e.g.*, prohibitions or restrictions on foreign participation in the market, discriminatory licensing requirements or regulatory standards, local-presence requirements, and unreasonable restrictions on what services may be offered).
8. Barriers to digital trade (*e.g.*, barriers to cross-border data flows including data localization requirements, discriminatory practices affecting trade in digital products, restrictions on the provision of Internet-enabled services, and other restrictive technology requirements).
9. Investment barriers (*e.g.*, limitations on foreign equity participation and on access to foreign government-funded research and development programs, local content requirements, technology transfer requirements and export performance requirements, and restrictions on repatriation of earnings, capital, fees, and royalties).
10. Government-tolerated anticompetitive conduct of state-owned or private firms that restrict the sale or purchase of U.S. goods or services in the foreign country's markets.
11. Other barriers (*e.g.*, barriers that encompass more than one category, such as bribery and corruption, or that affect a single sector).

Commenters should submit information related to one or more of the following export markets to be covered in the report: Algeria, Angola, the Arab League, Argentina, Australia, Bahrain, Bangladesh, Bolivia, Brazil, Brunei, Burma, Cambodia, Canada,

Chile, China, Colombia, Costa Rica, Cote d'Ivoire, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, the European Union, Ghana, Guatemala, Honduras, Hong Kong, India, Indonesia, Israel, Japan, Jordan, Kazakhstan, Kenya, Korea, Kuwait, Laos, Malaysia, Mexico, Morocco, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, the Philippines, Qatar, Russia, Saudi Arabia, Singapore, South Africa, Sri Lanka, Switzerland, Taiwan, Thailand, Tunisia, Turkey, United Arab Emirates, Ukraine, and Vietnam.

In addition, Section 1377 of the Omnibus Trade and Competitiveness Act of 1988 (Section 1377) (19 U.S.C. 3106) requires USTR annually to review the operation and effectiveness of all U.S. trade agreements regarding telecommunications products and services that are in force with respect to the United States. The purpose of the review is to determine whether any act, policy, or practice of a country that has entered into a trade agreement or other telecommunications agreement with the United States is inconsistent with the terms of such agreement or otherwise denies U.S. firms, within the context of the terms of such agreements, mutually advantageous market opportunities for telecommunications products and services. USTR will consider responses to this notice in the review called for in Section 1377.

We invite commenters to identify those barriers covered in submissions that may operate as "localization barriers to trade." Localization barriers are measures designed to protect, favor, or stimulate domestic industries, services providers, and /or intellectual property at the expense of goods, services, or intellectual property from other countries, including the provision of subsidies linked to local production. For more information on localization barriers, please go to <http://www.ustr.gov/trade-topics/localization-barriers>.

Commenters should place particular emphasis on any practices that may violate U.S. trade agreements. The TPSC also is interested in receiving new or updated information pertinent to the barriers covered in the 2018 NTE as well as information on new barriers. If USTR does not include in the NTE information that it receives pursuant to this notice, it will maintain the information for potential use in future discussions or negotiations with trading partners.

### **3. Estimate of Increase in Exports**

Each comment should include an estimate of the potential increase in U.S. exports that would result from removing any foreign trade barrier the comment identifies, as well as a description of the methodology the commenter used to derive the estimate.

Commenters should express estimates within the following value ranges: less than \$5 million; \$5 million to \$25 million; \$25 million to \$50 million; \$50 million to \$100 million; \$100 million to \$500 million; or, over \$500 million. These estimates will help USTR conduct comparative analyses of a barrier's effect over a range of industries.

### **4. Requirements for Submissions**

In order to be assured of consideration, we must receive your written comments in English by 11:59 pm on October 30, 2018. USTR strongly encourages commenters to make on-line submissions, using [www.regulations.gov](http://www.regulations.gov). On the first page, please identify the submission as “Comments Regarding Foreign Trade Barriers to U.S. Exports for 2019 Reporting.” Commenters providing information on foreign trade barriers in more than one country should, whenever possible, provide a separate submission for each country.

To submit comments via [www.regulations.gov](http://www.regulations.gov), enter docket number **USTR-2018-0029** on the home page and click “search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled “comment now!”. For further information on using the [www.regulations.gov](http://www.regulations.gov) website, please consult the resources provided on the website by clicking on “How to Use Regulations.gov” on the bottom of the home page. USTR will not accept hand-delivered submissions.

The [www.regulations.gov](http://www.regulations.gov) website allows users to submit comments by filling in a “type comment” field or by attaching a document using an “upload file” field. USTR prefers that you submit comments in an attached document. If you attach a document, please identify the name of the country to which the submission pertains in the “type comment” field. For example: See attached comments with respect to (name of country). USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If you use an application other than those two, please indicate the name of the application in the “type comment” field.

Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments. For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters “BC”. Any page containing business confidential information must be clearly marked “BUSINESS CONFIDENTIAL” on the top of that page. Filers of submissions containing business confidential information also must submit a public version of their comments that we will place in the docket for public inspection. The file name of the public version

should begin with the character “P”. The “BC” and “P” should be followed by the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges that you file submissions through [www.regulations.gov](http://www.regulations.gov). You must make any alternative arrangements with Yvonne Jamison at (202) 395-3475 before transmitting a comment and in advance of the relevant deadline.

USTR will post comments in the docket for public inspection, except business confidential information. You can view comments on the <https://www.regulations.gov> website by entering docket number USTR-2018-0029 in the search field on the home page. General information concerning USTR is available at [www.ustr.gov](http://www.ustr.gov).

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